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COMMITTEE ON GENERAL AFFAIRS
February 6, 2006
LB 1048, 1110, 1111

The Committee on General Affairs met at 1:30 p.m. on Monday, February 6, 2006, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing regarding the confirmation of gubernatorial appointments and LB 1048, LB 1110, and LB 1111. Senators present: Ray Janssen, Chairperson; Deb Fischer, Vice Chairperson; Matt Connealy; Philip Erdman; Mike Friend; David Landis; and Roger Wehrbein. Senators absent: None.

SENATOR JANSSEN: Welcome to the General Affairs Committee and hearings for this afternoon. I would like to introduce the members that are here. To my left is Senator Abbie Cornett from Bellevue; and to her right is Senator Matt Connealy from the Lyons-Decatur area; and to my right is Deb Fischer, Vice Chair of the committee, who is going to take over the committee here because I have another bill in Education that I'm going to have to go to; to my immediate right is counsel, Laurie Lage; and to my left is Brittany Sill, the committee clerk. We'll start off with the applicants for the State Electrical Board. Before you come up to testify on any of the bills, please have your testifying sheets back in the corner there and fill them out ahead of time, and drop them in the little box up here on the testifier sheet. For the record, my name is Ray Janssen. I am from District 15. I happen to chair this committee. With that, Brittany, have I missed anything? Our page for today is Mimi; I don't want to forget that. When you come up and testify, make sure you spell your name for the record, state who you are and if you are representing someone else or a company or something like that. First, we'll have the proponents followed then by the opponents to any of the bills, and then the neutral capacity. Try not to repeat anything that's already been said. Make sure you have, if you have a cell phone, make sure you have it turned off, put it on vibrate or something like that, and refrain from any conversations out in the audience. With that, let's start off with the confirmation hearings. Mr. Edwin Bergstraesser. Did I say that right?

EDWIN BERGSTRAESSER: Pretty close.

SENATOR JANSSEN: Pretty close. Good.

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EDWIN Bergstraesser: Burg-stresser (phonetic).

SENATOR JANSSEN: All right.

CONFIRMATION HEARING ON
EDWIN BERGSTRAESSER TO THE
STATE ELECTRICAL BOARD

EDWIN BERGSTRAESSER: Well, good afternoon, everyone. Thanks for giving me the opportunity to speak in front of you. My name is Edwin Bergstraesser; that's spelled B-e-r-g-s-t-r-a-e-s-s-e-r. I'm here to tell you why I am a good person to be the inspector/representative member to the state of Nebraska's Electrical Board. I first had the opportunity to become a member of that board a couple of years ago when I got to fill in for someone who was vacating that position. The person that was vacating that position is now our executive director of the department. I'll give you a little bit of background. I started in electrical at a very young age. My father was an electrical contractor from Milford, Nebraska. I was born in Lincoln and grew up in Milford. I grew up in an era when children were kind of looked at as free slave labor because my father got to utilize me on weekends and after school in order to help him get his jobs done. I became a licensed electrician many years ago. I worked in the industry from after graduating high school until 1993 when I became an electrical inspector for the city of Lincoln. I served as an inspector from 1993 until 2003 when I became the chief inspector for Lincoln. Some of my duties and responsibilities as the chief inspector for Lincoln are to promulgate the city of Lincoln's electrical ordinance into law. I also am the individual responsible for testifying in both civil and criminal cases. I am one of only two people I'm aware of in the state of Nebraska that is accepted in district court level to testify as an electrical expert. I hold certifications as offered by the International Association of Electrical Inspectors. I hold all three levels of certification that they offer. That's residential inspecting, electrical plans examiner, and electrical inspector general. I'm also a duly appointed voting member of the National Fire Protection Association, associated with Publication 70, which is commonly referred to as the national electrical code, meaning I'm one of the individuals

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in the state of Nebraska that actually get to decide what is written into the national electrical code, which is a great honor. There are very few of us here in the state. I also serve as the president to the Nebraska chapter of the IAEI, which is the association that certifies me. With that, that's pretty much my background. If you guys have any specific questions for me, concerns, I'd be happy to answer anything you have.

SENATOR FISCHER: Thank you, Mr. Bergstraesser.

EDWIN BERGSTRAESSER: Yes.

SENATOR FISCHER: You said that you're an electrical expert and you can testify in court cases?

EDWIN BERGSTRAESSER: Yes.

SENATOR FISCHER: Did you say you were one of two?

EDWIN BERGSTRAESSER: One of two I'm aware of. I don't know of any others.

SENATOR FISCHER: What are the qualifications for that?

EDWIN BERGSTRAESSER: I'm, honestly, not an attorney and so I could not relate to you in specific terms what all that requires, but I know my city attorney's office and the prosecutor's office and myself worked many, many hours in order to get me to that point. There is a whole lot of legal jargon in there that I'm honestly not real good at because it was stuff that they basically told me I needed to do this or this or this, and then they could accept me as an actual expert.

SENATOR FISCHER: Okay. And when you also spoke about the national electrical code, and that...

EDWIN BERGSTRAESSER: Um-hum.

SENATOR FISCHER: How were you chosen for that?

EDWIN BERGSTRAESSER: Honestly, that's a deal where you are appointed by your peers, meaning other individuals in the electrical industry who have already reached that level

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decide who is knowledgeable enough in order to help at that level.

SENATOR FISCHER: Okay. Well, I appreciate you coming today. Do any committee members have questions? Senator Connealy.

SENATOR CONNEALY: Thank you, Senator Fischer, and thanks for being here. I actually have some state inspectors at my daughter's house today and at my house. A couple things that we've heard in the past, is availability and timeliness of inspections, especially outside of the metropolitan areas of the state.

EDWIN BERGSTRAESSER: Correct.

SENATOR CONNEALY: In my personal experience, I'm 60 miles north of Omaha, we have had good response and good timeliness of inspections, so do you have any comments on how we're doing across the state?

EDWIN BERGSTRAESSER: Actually, thank you for that compliment. That's something that we have worked very, very hard to try and keep up with. I know in the past it's been very difficult in order for us to maintain a reasonable amount of time so that we're not holding up the construction of projects. That is something we are continually working with. The problem is, it becomes a difference of volume of work, volume of inspections, and manpower availability. And so right now, as long as work stays slow, we can kind of keep up, but if we see any more boom in construction, it's going to be a very difficult situation for us to handle.

SENATOR CONNEALY: Thanks.

SENATOR FISCHER: Any other questions? Well, seeing none, I appreciate you coming before the committee today and thank you very much.

EDWIN BERGSTRAESSER: Thank you.

SENATOR FISCHER: Do we have anyone here today who would like to comment on this appointment? Seeing none, we will move on to our next confirmation hearing for Cory Mill-er (phonetic) or Cory Mule-er (phonetic).

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CORY MUELLER: Mule-er (phonetic).

SENATOR FISCHER: Mule-er (phonetic). Cory Mueller.
Welcome.

CONFIRMATION HEARING ON
CORY MUELLER TO THE
STATE ELECTRICAL BOARD

CORY MUELLER: Thank you. Good afternoon. Thank you very much for this opportunity to present myself to serve on this State Electrical Board. It's with great honor that I am here. The executive director of our State Electrical Division, Ted Stutheit, and Mr. Bill Whitmer of ABC Electric were kind enough to offer my name for consideration. A little bit about my background: I attended Chadron State College for a couple years and with an accounting major. Transferred to UNL and graduated in '92 with a bachelor's of arts in philosophy and a bachelor's of science in business administration. In '95 I received my M.B.A. degree from UNL and served as a business consultant for approximately a year and a half's time. Having spent some time in the office, I realized that I was a little more antsy and needed to have a career that allowed me to get outdoors, so I entered the electrical field and spent five years in an apprenticeship program and finished top of my class in that. And upon graduating the course, I became a foreman for Gregg Electric and actually served here in this building on the Sower itself, removing the light for its renovation, and placed it back. And then in 2003, I decided to put my business degrees to use and became an electrical contractor. And that is the position I would be filling on the State Electrical Board, would be the electrical contractor position. If there are any questions, I would be happy to answer them.

SENATOR FISCHER: Okay, thank you, Mr. Mueller. Thank you for being here today. For the record, I would like to say that we have been joined by Senator Friend, Senator Erdman, Senator Landis, and Senator Wehrbein. Does anyone have any comments or questions for Mr. Mueller? I appreciate your willingness to serve on this board.

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CORY MUELLER: Thank you.

SENATOR FISCHER: Thank you very much.

CORY MUELLER: All right, thank you.

SENATOR FISCHER: Is there anyone wishing to make any comments at this hearing on this confirmation for Mr. Cory Mueller? Seeing none, I will close the confirmation hearings. We've been joined now by Senator Bourne and so I will open the hearing on LB 1048.

LB 1048

SENATOR BOURNE: (Exhibit 1) Thank you, Senator Fischer, members of the General Affairs Committee. My name is Pat Bourne. I represent the 8th Legislative District in Omaha, here today to introduce Legislative Bill 1048 which authorizes the use of electronic pickle card devices. The purpose of this bill is to give charities the ability to compete with other forms of gaming by utilizing modern technology. Keno, the state lottery, and casino gaming in Iowa continue to erode the ability of charities to raise funds. Pickle card proceeds continue to decline. From 2004 to 2005, pickle cards proceeds dropped another 11.6 percent. In a ten-year period, these proceeds that go to benefit charities have decreased by 65 percent. I am passing out a chart from the Department of Revenue's 2005 charitable gaming report that illustrates this decline. Under LB 1048, the game played with an electronic pickle card device is identical to the game played with paper cards. An electronic device either reads a bar code on the pickle card and determines if it is a winner or allows the player to open the card by moving a finger across an electronically displayed image. Under this bill, an electronic pickle card device would be prohibited from dispensing cash, coins, tokens, or from accumulating credits. The machine would dispense either an actual pickle card or a paper ticket. Winning cards have to be redeemed on the premises. LB 1048 would limit each location to two electronic devices. The devices would be allowed only at an organization's designated premises, it's regularly scheduled and limited period bingo, and at the premises of a pickle card operator. Electronic pickles is not a new form of gaming. It is

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simply bringing the old-fashioned cardboard game into the technological era. We used to have World Book encyclopedia in several volumes and books; now all that information is contained on a disk. We used to be issued paper tickets when flying; now they are electronic tickets. The Department of Revenue has already authorized a form of electronic bingo, and just this year our Bill Drafting Office has implemented a new system where drafts are in the form of PDF files instead of hard copies. Every year that the Legislature holds onto the false notion that modernizing the pickle card game expands gambling, is another year that charitable organizations, Little League teams, churches, American Legions, lose their ability to raise funds for their community betterment projects. I did want the committee to be aware that I have a technical amendment that makes one minor change regarding the delivery of these pickles, which I will give to the legal counsel. With that, I would conclude my opening, Senator.

SENATOR FISCHER: Thank you, Senator Bourne. Are there any questions for Senator Bourne? Seeing none, will you be staying for closing?

SENATOR BOURNE: You know, I've got another bill to introduce in the Education Committee so I probably won't. Thank you.

SENATOR FISCHER: Okay. If you are present, you are welcome to close.

SENATOR BOURNE: Thank you.

SENATOR FISCHER: Thank you. First, we will start with the proponents for LB 1048. If you would come forward please, state your name, and spell it for the record?

JEREMY DAMGAARD: Good afternoon. Senator Fischer, members of the General Affairs Committee, my name is Jeremy Damgaard, D-a-m-g-a-a-r-d. I'm with Precision Distributing Company. We're a charitable gaming distributor located in Omaha and we've been in the charitable gaming business in Nebraska for approximately 20 years. Senator Bourne touched on a lot of important things, as charitable gaming goes here in the state and where it stands, so I'll try and steer away from some of that. But it does...does the loss in

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charitable gaming dollars necessarily, is it a reason to pass this bill? I don't think so. Just because, I guess, in short,...just because somebody wants something, does it...should we allow it? No, I don't agree with that. But it does say a lot that of the dollars wagered between 1994 and 2005, approximately \$156 million has been lost. Of that, pickle cards has been, of course, hardest hit, losing \$126 million or 81 percent. That's considerable. As Senator Bourne mentioned, the functionality of these devices is in no way similar to a slot machine. And according to the Attorney General's Office, there was an Opinion, I believe it was February 2006, that stated that these devices are in no way unconstitutional and I believe the Attorney General stated that basically just because a device has a video screen does not make it unconstitutional. In fact, I can quote from the Opinion, "We concluded that the video display of the contents of the ticket could be viewed as a legitimate form of technological aid or enhancement to play with a physical card or ticket remaining as an element of the lottery." And both devices proposed in the bill follow those guidelines. And it's also worth noting, there was a case in, and I think we all remember this, involving the Santee Sioux Tribe. They had devices similar to these at their casino. And I'm getting away from the charitable gaming a little bit here, but I think that the judge's decision in the case bears quite a bit of relevance. He basically stated that the devices that the Santees were using were, in fact, pull-tab machines. They were in no way copies, facsimiles, or whatever you want to call them. He decided that they were, in fact, pull tabs. Senator Bourne also touched on that we're being by-passed, the technological environment, we're surrounded by technology, for lack of a better term, and I think, as things change, pull tabs should probably change too in order to keep our products viable and competitive. I think it's of the utmost importance that we make this change to pickle card gaming. The authorization of electronic bingo, I think a precedent was set when electronic bingo was authorized in this state. And I believe it was three years ago there was a bill introduced that...there was the requirement that when the player purchased an electronic bingo handset, they were required to be...they were supplied with a physical representation of the cards in their handsets, be it actual bingo paper or a printout, but they were required to be supplied with a representation of the cards. That

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requirement was thrown out. Those handsets are no longer required to have a physical representation of the cards in the handset. The handset is considered bingo. In closing, I think it's irrelevant whether or not you agree with gaming, charitable or otherwise in this case. To me, what's important is what the law will allow. And it's been stated by the Attorney General's Office that these devices are constitutional and I think that's of...it's very important, I think. I don't think I would be sitting here if I didn't think that these devices were in any way illegal. I think that would be foolish of me to be sitting here trying to be a supporter of a bill that would, well, for lack of a better term, be a lie. I don't believe that. But anyway, thank you.

SENATOR FISCHER: Thank you, Jeremy. I have a question for you. I believe you said that there was a total of \$156 million that was lost in that time period that you referenced, like a ten-year time period or more,...

JEREMY DAMGAARD: Yes.

SENATOR FISCHER: ...with 81 percent being from the pickle card losses.

JEREMY DAMGAARD: Yes.

SENATOR FISCHER: In your opinion, why are pickle cards seeing such a loss in revenue?

JEREMY DAMGAARD: I believe it is due, in large part, to other forms of gaming. The state of Nebraska is surrounded by casino gaming. I think it could be shown that the majority of pull-tab sales, pickle card sales, has been on the eastern-most side of the state, mostly because this is where the population is. We're very close here to three very large casinos, and I think that could be considered...I believe it's mostly due to competing forms of gaming.

SENATOR FISCHER: Okay, thank you. Senator Wehrbein.

SENATOR WEHRBEIN: If this would pass, what do you expect to gain and how do you expect to gain it?

JEREMY DAMGAARD: To be honest, I don't know if we'll gain

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anything. Electronic bingo has been authorized for nearly ten years, and the bingo has continued to lose money. The electronic bingo has saved those...I believe that they probably would have closed a long time ago. What was the second part of your question?

SENATOR WEHRBEIN: Well, how do you expect to gain it? If you don't gain anything, I guess, you've answered that. You say you won't.

JEREMY DAMGAARD: Um-hum.

SENATOR WEHRBEIN: And I thought you would probably say we would gain market share or get some market share back or... I mean, I am at a loss to understand. I mean, I have my own thoughts. I think people will lose money faster because they will play faster. I mean, you want to play faster, is that what's (inaudible)?

JEREMY DAMGAARD: Well, that's not necessarily the case. I have one of these devices in my office in Omaha and I can open pull tabs faster than dispensing them from this machine and opening them. It in no way speeds the game up, I don't believe.

SENATOR WEHRBEIN: So why should we do it then?

JEREMY DAMGAARD: It's a marketing tool. I think it will appeal to more people. Is that wrong? I don't think so. Everyone wants to bring more people to their product. And I think because this is gaming, it has a negative stigma attached to it. This is charitable gaming, and, to me, it's a lot different than casino gaming. We're limiting devices to two per location. We're not changing the way pull tabs or pickle cards are played. We're not changing payouts. The games themselves are finite count, limited in payout.

SENATOR WEHRBEIN: So what do you expect to gain, going back to my first question?

JEREMY DAMGAARD: I don't know. It certainly couldn't hurt, and I guess that's... To be honest, I don't know what we'll gain. It's difficult to say. I think it will stop the bleeding. But will it save pickle cards in this state? I don't think so. But it will help charities to hold on a

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little longer, I guess.

SENATOR WEHRBEIN: Thank you.

SENATOR FISCHER: Any other questions? I have hopefully one final one here. Right now, who can use pickle cards? Charitable organizations?

JEREMY DAMGAARD: Yes.

SENATOR FISCHER: Who uses them?

JEREMY DAMGAARD: VFWs, American Legions,...

SENATOR FISCHER: Only charitable organizations?

JEREMY DAMGAARD: Yes.

SENATOR FISCHER: Okay. Other questions? Okay, thank you very much.

JEREMY DAMGAARD: My pleasure. Thank you.

SENATOR FISCHER: Other proponents?

RAY BASILI: Good afternoon, members of the General Affairs Committee. Thank you for the opportunity to talk this afternoon. I've been here, I think, several years in the past, and I'm...

SENATOR FISCHER: Could you state your name and spell it, please?

RAY BASILI: Oh, I am sorry. It's Basili, B-a-s-i-l-i. I've been here in the past and I think what I'm going to do is just kind of recap. I am the secretary and treasurer of a youth organization called the Downtown Boxing club. We teach young men and women the sport of amateur boxing. Typically, young people can come to our boxing club without any cost to them except the clothes on their back, and participate in this sport. Not to rehash, over the years are funds are dwindling, and Senator Fischer, I guess to maybe answer your question, what's kind of...why are pickle cards dwindling? I guess I go back to...I remember my first laptop that I got had an orange screen. It was a AST; it

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had a 80 meg hard drive. I think about how would you like to conduct business that way today with that type of equipment or technology. I think what's basically happening here, if you look at the marketplace of the people or the venue where these pickle cards are sold are normally establishments that sell liquor, okay--bars typically. They, I believe, use that as just another form of entertainment, no different from a pool table, a dart board, for their patrons to participate in. The problem is though, pickle cards are just a cumbersome tool, if you want to say, or a cumbersome existence. They are paper; they are clumsy; and most bars don't want to deal with them anymore. And I think to answer your question, Senator Wehrbein, is that the way I see that is not that people are going to go out there and lose their paychecks. I don't think anybody has ever...well, maybe, I'm sure there has been...but people don't normally lose paychecks paying bingo or pickle cards. They are basically a form of entertainment for bars. And what I see happening as a result of this is that establishments will be more apt to have these available for their patrons rather than having any individual go there and lose or play faster losing their money. We're really not...we don't want to see people...we're not preying on people to lose their money. I think what really is going on here is just a matter, again, as Senator Bourne said, as to I guess come up to the high-tech era and just make it available. And basically I think the bill allows, if I remember reading, just two machines per unit. We're not looking to spread slot machines throughout the whole state or even in Omaha, which is where we are out of. I think what we need is just a little more of an edge. We'll never compete with the casinos. That's done. When the casinos opened up, we lost 50 percent of our revenue, and we're struggling. We are a struggling, small charity, that provides a good service to the community. These kids...you know, if we close our doors, where do they go? I don't know where they go. But, and I guess everyday sometimes I say, why do I keep doing this? Because I really enjoy what I do and I think we provide a good service to the community. So I guess, in conclusion, that's why I think is going. I'm hoping that you'll look at this and not look at it as a slot machine or a way to expand gambling through the state. And keep in mind, the funds from this source of revenue, number one, goes into the Nebraska state, I think, general fund, and it goes to charities. It's not going to Las Vegas

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to some stranger's pocket. It stays here in the state. So, in closing, are there any questions?

SENATOR FISCHER: Thank you, Mr. Basili. Any questions? I have one.

SENATOR JANSSEN: Mr. Basili.

SENATOR FISCHER: Oh, I'm sorry. Don't leave yet. When you say most bars don't want to deal with the cards anymore, and I guess I don't fully understand how this whole situation works. Has there been a decrease then in the bars wanting pickle cards or bars not even doing it anymore?

RAY BASILI: The answer to that is both yes. The paper product, number one, it's hard for them to monitor. It's hard accountingwise to keep track of them. It's difficult to...I think it's more difficult to watch their employees from stealing from them. And those right there are the three main reasons. We are out on the front line and we see this, and this is the feedback we get.

SENATOR FISCHER: Okay, thank you very much. Senator Friend.

SENATOR FRIEND: Thank you, Senator Fischer. Sir, what was the name of the boxing club that you...?

RAY BASILI: It's the Downtown Boxing Club.

SENATOR FRIEND: The Downtown Boxing Club.

RAY BASILI: Yeah, we're out of Omaha.

SENATOR FRIEND: Oh, yeah. How many different forms of fund-raising does your club partake in? I mean, you've got the current pickle card scenario. What else do you guys get involved in?

RAY BASILI: We have tried numerous times in the past for grants. And we just cannot seem to get to that...we can't get it. We have managed to find one source, through Mayor Fahey's help we do have a donation to the whole boxing clubs of Omaha through a source. But other than that, that's the only donations we get. But we have tried grants many times,

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and in our early days when we were new, we did the whole thing: the cake sales, the car washes, we've done all that. But we pretty much, as I had mentioned earlier, these kids...and, you know, we're talking kids that are not your normal high school athletes. These are kids, we get a lot of the Hispanic market from South Omaha. A lot of those kids come up to our gym and they can come in there, we take them traveling. They don't have to pay for anything, and we provide that. So our needs, obviously, have grown considerably from the days when we were doing cake sales to this point.

SENATOR FRIEND: How many boxing clubs are left in Omaha? I mean, Downtown Boxing Club? How many...I don't mean to put you on the spot; I'm just curious.

RAY BASILI: I'd say there are four or five--five.

SENATOR FRIEND: And the reason I ask, when I was a kid we could easily... My dad is a huge boxing fan and he would take me to watch these... I mean, it's not just Golden Gloves. I mean, he would take me to watch these events. I don't know how much it cost him then, but do you have these events going on now where you actually charge admission, are licensed to charge admission to actually compete against other boxing clubs?

RAY BASILI: We do. Of course, they have the Golden Gloves which goes to the whole Omaha Coaches Association. And, of course, that money is used to fund next year's event. It is a fairly considerable cost to rent the Civic Auditorium which is where we keep them or where we put them on. We ourselves have put on boxing shows and we do do that, but it is just not enough to fund the needs that we do.

SENATOR FRIEND: Okay. Thanks.

SENATOR FISCHER: Thank you, Senator Friend. Other questions? Seeing none, thank you very much.

RAY BASILI: Thank you.

SENATOR FISCHER: Next proponent, please. Are there any other proponents? Seeing none, we'll move on to the opponents of the legislation or the bill proposed.

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STEPHEN GRIFFITH: (Exhibits 2 and 3) Senator Fischer and Senators, my name is Stephen Griffith, G-r-i-f-f-i-t-h. I live here in Lincoln. I am a minister to the community at St. Paul United Methodist Church here in Lincoln, and in that capacity have also worked with Gambling with the Good Life. I'm here to speak in opposition to this bill. I also intended to speak in opposition to LB 1110, but unfortunately I won't be able to stay for that round. In any case, I would make the same arguments on both bills, so I hope you will consider my remarks in your deliberations, and I've provided separate testimony on both. Many churches across Nebraska, including the United Methodist Churches and St. Paul Church where I am a pastor, are opposed to expanded gambling in any form. The people of Nebraska, time and again, have said no to expanding gambling, and the reasons are simple and, I believe, compelling. Gambling is not merely a form of entertainment or a method of soliciting charitable donations. It is an addictive activity. It causes financial harm and hardship. It's destructive to individuals and families, and therefore detrimental to society. The Omaha World-Herald, in a recent editorial, January 28 of this year, called a similar provision in Iowa "video crack," and I think that's an apt description. These bills, I believe, seek to institute what we have already rejected, although they propose what seems a simple and innocuous update from paper to digital technology, I believe they would, in reality, implement a substantive shift to what amounts to video slot machines. They would be placed in locations that already have pickle cards or keno: places of everyday exposure and easy access. With electronic pickle cards, electronic keno readily at hand, I believe we can only expect increased use, and that is, of course, as you've already heard, the hope of the promoters. But with increased gambling, we will also see increased problem gambling, and as a result, an increase in families seeking help with food, rent, and utilities, and an increase in bankruptcies, and an increase in domestic violence and other social ills. Any increases in revenues to the state from keno or to charities from pickle cards will be more than eaten up by the increased need for social services that the state and charitable organizations will be called upon to provide. And I urge you to reject, not only LB 1048, but LB 1110. Thank you.

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SENATOR JANSSEN: Steve, thank you for being here today. Did I understand you, you were affiliated with the Methodist Church, is that correct?

STEPHEN GRIFFITH: That's correct.

SENATOR JANSSEN: Do any of your parishioners, your young people, play Junior Legion baseball?

STEPHEN GRIFFITH: Yes, I'm sure they do. I can't name names right off hand.

SENATOR JANSSEN: Um-hum. I was just thinking, I know the Legion, the American Legion in the community I have my business in, sponsor this summer baseball program: the Junior Legion, the Midgets. And several years ago they started distributing the pickle tickets. That program was about ready to die because the Legion could not afford to keep it going. And through the sales of those pickle tickets in the community and other areas, they have a very good, sound program now, and they are able to provide those young people with baseball throughout the whole summer.

STEPHEN GRIFFITH: Um-hum.

SENATOR JANSSEN: Now, if it wasn't for that, the Legion members, as you know, are all getting older. They are less likely to try to have fund-raisers, and so on. And there are probably a couple of locations in the town that I live in, and several in surrounding areas, but they fund that program and provide a good service for those young people. So I just wanted... You know, I wanted you to know that there are some things that are happening with those funds that are brought in from the pickle cards, and I don't know of anybody... I live in a small town of about 1,000 people and I have not heard of anybody being addicted to those pickle cards. They play them because they know where the funds are going to.

STEPHEN GRIFFITH: Senator, I appreciate that reminder about the good that organizations do, and I've had parishioners who have played Legion baseball in the rural communities where I've served, as well as in Omaha and Lincoln. And I know that organizations accomplish worthy things. Still and nevertheless, I would be opposed to... I know that pickle

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cards are here; we're not going to eliminate them, but I would urge us not to lightly make the step into what I really think is a different form of gambling. I think you probably have a point that no one in your average downtown bar in Nebraska is going to be addicted to gambling simply from pickle cards. It is, however, one form of gambling. And the more forms of gambling that we make available to people, the more opportunity there is to participate in what I believe to be a fundamentally addictive kind of behavior.

SENATOR JANSSEN: Of course, we're pretty well limited on the type of gaming that we can have in this state. And with what we do have, it is less addictive than some of the other forms of gambling that people are introduced to every day of their life. They don't have...especially in this part of the state, you don't have to drive very far to find something like that. And it's very hard to protect the charitable organizations that do the good things that we've...and you agree with me; you're saying, yes, they do provide some very good recreation for the young people in this state. So it's kind of, you might call, a competitive battle with the Goliath and David.

STEPHEN GRIFFITH: One of the things that I was thinking here while you were talking about Legion baseball, and as Mr. Basili was talking about the boxing club, is while all charitable organizations are struggling to find funding to do worthy projects, and we may be dealing with a limited pot of charitable contributions out there, I'm wondering about the possibilities of organizations working together. Is it possible somehow for various organizations in small communities to come together and work together to support baseball, as well as other activities for youth and children in the communities instead of using the gambling proceeds?

SENATOR JANSSEN: Um-hum. Okay. Thank you. Any other questions? Seeing none, thank you for being with us.

STEPHEN GRIFFITH: Thank you for your time.

SENATOR JANSSEN: Next opponent, please. Oh. Welcome, Senator.

EUGENE TYSON: Good afternoon, Senator Janssen and member of the committee. My name is Gene Tyson.

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SENATOR JANSSEN: Would you spell your name for the record, please?

EUGENE TYSON: First or last?

SENATOR JANSSEN: Both.

EUGENE TYSON: E-u-g-e-n-e T-y-s-o-n.

SENATOR JANSSEN: Thank you.

EUGENE TYSON: You're very welcome, Senator Janssen. I am here to speak against LB 1048, which, as this committee knows, is a carbon copy, a precise copy, of LB 733, which this committee IPPed about a year ago, and which I hope does the same thing this year. This is a bill purporting to assist in distribution of pickle cards. Pickle cards are a wonderful thing. They return, according if you have the time and the money to spend, they say 70-some percent. I don't know that that's true, but it is really immaterial because this is not gaming; this is gambling. And one of the things that makes gambling addictive is the speed in which you can play--the action. And many discussions on gambling refer to the action--fast. This is supposed to have a charitable purpose. If the return is 70 percent to the player, and you want to do something to support something like the American Legion ball, you can save a lot of time and stay out of smoky, unhealthy bars by just giving it to the American Legion. The difficulty with all of these charitable organizations is that they are shrinking in membership. I spoke last night with a friend of mine that I used to work with for 20-some years who is the commander of the American Legion Post in Norfolk, Nebraska, where I live. Ten years ago they had 1,450 members. This year they have 1,035 members. The same is true of the Kiwanis, the Elks, all the others. Their membership is shrinking probably for the same reason that bowling leagues are shrinking. People are not into that type of activity anymore. Charity should be a voluntary giving for a worthy purpose, and that's a virtue. Pickle cards and other forms of gambling depend on the greed of the player, and that's a vice. Do you support a worthy virtue with a vice? I would argue that you don't. Money taken from the economy, in any form of gambling, is a sterile thing. It gives no benefit to the player. It takes

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and gives the only benefit to those who are running the game. I think that it is not the way that we should support worthy ventures. Also, it has been mentioned here today that the Attorney General has passed on this as being constitutional. I am not an attorney and I'm not going to argue with the Attorney General's Office, but have any of you ever seen one of these horror movies where the handsome protagonist suddenly begins to change, a little bit, a little bit, and I remember James Earl Jones changing into a serpent. Is this what we have here? Suddenly the monster is revealed. And I think that this is a monster because it takes and really serves no purpose that cannot be served otherwise. I urge that you indefinitely postpone this bill.

SENATOR JANSSEN: Any questions? Senator Connealy.

SENATOR CONNEALY: Thank you, Senator Janssen. Good to see you here, Gene.

EUGENE TYSON: Thank you.

SENATOR CONNEALY: Thanks for being here. When our forefathers instituted, and rightfully so, the right to bear arms, we had musket and ball.

EUGENE TYSON: Yes.

SENATOR CONNEALY: And today we don't, and we still have that right. It seems to me that if we...it would be more honest and more forthright to come in and try to get rid of pickle tickets and to stop the idea that we ought to help the game in its existence. It isn't a change in it. It seems that this is declining by, we heard, 80 percent, and the ills of gaming or the addiction hasn't declined by 80 percent in the state of Nebraska because it comes from other places. Those are the kind of things that I struggle with when I see these charities going really downhill with this revenue source. Do you want to comment on that?

EUGENE TYSON: Well, number one, I agree with you; yeah, they are going downhill. I don't know that pickle cards or other ways that they have of raising funds are necessarily the cause of that. I think that there has been a cultural shift. People do not come together as they did when you were young, or even before you were young, I was young.

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Senator Wehrbein may remember.

SENATOR LANDIS: I think they have invented sand when Gene was young, isn't that right (inaudible)? They have just invented sand when you were young.

EUGENE TYSON: No, I was 28 when they invented sand. (Laughter) I think that it's a false argument to say charitable organizations need this. If the charitable organization is doing something worthwhile, they should be able to find some way to finance it with charitable giving, which would be tax deductible rather than with pickle cards which, to the best of my knowledge, aren't tax deductible. I have never bought a pickle card. But, see, pickle cards today are an outgrowth of the punch board. Did you ever play punchboard, Senator Connealy?

SENATOR CONNEALY: No.

EUGENE TYSON: You had a board and you paid a quarter and you took a punch and you punch, and you spread it out and either you won or lost. This is just a, going on this; this is more so. The thing of it is though, as you change this more and more and more, and despite what was said before, I think you do speed the action up. I think it becomes more addictive and at some point, maybe not with this bill, but the next bill beyond this and the one beyond that and the one beyond that, all of a sudden you are not looking at a pickle card dispenser; you're looking at a slot machine, and the Attorney General has ruled that slot machines are unconstitutional. And as a matter of fact, there was in the Omaha World-Herald a week or so ago, that they are prosecuting a whole series of them in southwestern Nebraska. A little change may not be bad, but if it is one link of a long chain, it is bad; and I think that this is bad.

SENATOR JANSSEN: Any other questions? Gene, I have a couple. You know, it is unfortunate, but I think you are going to see the ranks in the American Legion and VFW grow, but given that, I think about people, they know that the American Legion or the VFW is going to sponsor a summer baseball program again, and donations can be sent to your, or given to any of your Legion members that you know. I think it is quite likely that there will be some people that would send \$15, \$20 to the Legion, and say, this is for the

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summer baseball program. You are more likely to see that same person that gets off work at the co-op stop at his favorite watering hole and drop \$5 in a pickle or in a pull-tab machine or buy some out of the box, and think nothing of it. He may do that a couple nights a week. Sometimes he wins; most of the time he loses. But that is going to that program where just sending a \$15 or \$20 contribution doesn't happen very often. It just doesn't happen very often, and most of those games, they do have someone at the gate taking tickets. But not many people go to baseball games anymore. The parents and the grandparents go.

EUGENE TYSON: Um-hum.

SENATOR JANSSEN: But you just don't see the crowds that like you and I saw after World War II where people would flock to that baseball game on a Sunday night, especially if it was two competing towns against each other, and there would be hundreds and hundreds of people, sometimes thousands of people, at just a small town to watch that baseball game. I remember my dad used to have to take his car in on Sunday afternoon and park it so my mother would have a place to sit and watch the ball game. But those days are over.

EUGENE TYSON: Yes.

SENATOR JANSSEN: So now we have organizations trying to help young people have something to do in the summertime. And I think it is just great that the American Legion still keeps doing this, and, in my opinion, I think we should provide them with any means we can to keep those programs going. If it is this, fine. I have no qualms with it because the days of people sending \$100 to the American Legion, that's over.

EUGENE TYSON: Well, number one, yeah, there has been what I mentioned is a cultural shift. But I think the appealing thing about this to an organization, including the American Legion, and I belong to the American Legion. I used to belong to the VFW. I was a former chapter commander of the DAV in Omaha. If you want money, you do have to go ask for it or you have to come up with something like pickle cards. The proactive approach would be to go ask for it. I've done

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that. You probably have also in one activity or the other. And if asked, for a good cause, people will give. As a matter of fact, Senator Janssen, if you would like to make a contribution to Gambling with the Good Life, we would eagerly accept it.

SENATOR JANSSEN: Well, you would have to get in line. There are a lot of other people who would like to see me do that also.

EUGENE TYSON: I am very patient.

SENATOR JANSSEN: You never know, I might do that. Oh, by the way, do you have any games of chance that I could just...with your organization?

EUGENE TYSON: Well, we're thinking about pickle cards, but we just can't bring ourselves to do it.

SENATOR JANSSEN: All right, thank you. Any other questions? Seeing none, thanks for being here today, Gene. Always appreciate having you here.

EUGENE TYSON: Thank you. Nice to see you all.

SENATOR JANSSEN: Good luck. Next opponent, please.

AL RISKOWSKI: It's Al Riskowski, Nebraska Family Council. Al and then Riskowski is R-i-s-k-o-w-s-k-i. I go back, it seems to me in 2002 there was a similar bill to get electronic pickle card devices here in our state to get electronic, and so this is not a recent proposal. It's been on the table a number of times, and always has gotten stuck right here in committee, and I think it's a very telling aspect of this proposal, just that it has not gotten out of committee over these number of years. I think it is very telling, as well, who is not here today. There are many nonprofits who actually receive these funds who are not here today to testify how desperate they are. I have been a pastor--pastored for over 25 years. I've been part of nonprofits for over 30, almost 35 years. We have been privileged to be part of baseball, to promote that in our community. I have been a big supporter of like a Boy Scouts and all sorts of nonprofit organizations to work with boys and girls in our community. We have never gotten funds from

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these type of beneficiaries. And it has always been tight, but we come up with other means to raise funds rather than building on the losses of family members. Because we are a Nebraska Family Council, we are very sensitive to what happens to families. And just a little over a year ago, of course there was the attempt, the strong attempt, to expand gambling here in the state of Nebraska, and the voters certainly turned that back. And one of the major reasons was because of what it does to families. And I know the proponents of this bill are hoping that this would become more attractive to stimulate more gamers in regard to the pickle cards. That is always their hope. It is not only the nonprofits who profit from this. It is, of course, the owners of the machines, the bars, et cetera, also profit from this, and some of these nonprofits. So I am here just today, making a short statement in opposition, that there are a limited number, actually, of nonprofits who do receive these funds. There are a much wider spectrum of nonprofits who never receive a penny of this who also work with boys, girls, children, and many of these similar areas in our communities, and survive without it. Thank you.

SENATOR JANSSEN: Thank you, Al. Any questions? Senator Fischer.

SENATOR FISCHER: Thank you, Senator Janssen. Al, you said a limited number of nonprofits receive the funds. Do you know how many nonprofits receive these funds?

AL RISKOWSKI: I am not fully sure, but I do know that within the church community and the many different activities that are promoted there, we do not receive those funds.

SENATOR FISCHER: Do any churches receive funds from pickle cards?

AL RISKOWSKI: I am not aware that they do. Now, that I don't know for sure, from the pickle cards.

SENATOR LANDIS: I think there are a lot, aren't there, that...

SENATOR CORNETT: Yes, quite a few.

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SENATOR LANDIS: Al, I think there are a number in the Omaha area, I think, use them.

SENATOR CORNETT: Yes, a lot of Catholic churches.

AL RISKOWSKI: Oh, okay.

SENATOR FISCHER: Okay, thank you.

AL RISKOWSKI: Our church never did.

SENATOR JANSSEN: Any other questions? Seeing none, thanks, Al, for being here today.

AL RISKOWSKI: Thank you.

SENATOR JANSSEN: Next opponent, please.

JEFF DOWNING: (Exhibit 4) My name is Jeff Downing, D-o-w-n-i-n-g, and I'm chairman of the board of Family First, and our executive director had another matter to attend to, so Dave Bydalek is not here today. I would ask that his statement be entered into the record. I have provided copies to the clerk, both on this bill, as well as LB 1110, which I understand the committee will take up a bit later. I'm not only chairman of the board of Family First, but I'm also a lawyer. In addition, I play a lawyer on TV when Gambling with the Good Life was invited to participate in the NETV-sponsored broadcast trial a little over a year ago when our state was examining the issue of expanded gambling. I had the privilege of calling a couple of witnesses against that proposed expansion. One of those witnesses who appeared only by videotape because he is a fairly busy guy was Warren Buffett. Warren Buffett, whose savvy and intellect is unparalleled when it comes to financial matters, testified very clearly about what he has seen about the dangers of expanded gambling, and particularly in that case we were dealing with expanded casino gambling, as well as expanded slot machines. And what I've observed of the committee's questions today and of those who have testified in both proponent fashion and opposition, it's one of the things I've thought about is that this level of expansion, expanding to the video area of keno or pickle cards, I view this as potentially another gateway: a gateway not only to expanded gambling in our

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state, but a gateway for the gambler or the gamer, him or herself. Getting the rush of adrenaline from using video pickles could lead that person into other forms of video gaming, which the deleterious effects have been seen far and wide and have been seen very near to us, as has already been referenced from what has been called "video crack" in the state of Iowa. One of the proponents testified that, well, the Attorney General has found that this use of video technology is constitutional. But what the committee should consider today is that simply because something is constitutional, does not mean that the state of Nebraska ought to throw its weight behind it. As you all read on a regular basis, federal judges find things constitutional on a regular basis that we would not want the Legislature or this committee to throw their weight behind and try to advance. For example, federal judges, from time to time, find pornography is protected free speech; it's constitutional. But that doesn't mean that we should have bills that advance that type of behavior in the state. Or the flag burning, for example; it's constitutional. But that doesn't mean the Legislature ought to be advancing that sort of behavior. So the mere fact that something may be constitutional does not mean that is it a public good for the state of Nebraska, or particularly, as far as I'm concerned, for Nebraska families. The last capacity in which I'll tell you that I'm testifying in today is as a father of five. And as a father of five, I've observed some behavior in my children. And one of other things that we have a hard time doing is keeping them off of video machines or video games. But they will quickly burn out in about five or ten minutes if you put a piece of paper in front of them and ask them to play tic-tac-toe just using paper and pen with one another. That will last about 10 or 15 minutes until the food comes at the restaurant or wherever. But you can put them in front of a video game and they could be contented for hours and hours if there mother or I fell asleep or weren't around. Fortunately, we're vigilant and so we don't do that, and so I think that provides just some indications, as we all know, the human nature, the addictive nature of video gaming in whatever form it might take place. And so in those capacities, I would urge you to reject this proposal.

SENATOR JANSSEN: Questions? Senator Landis.

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SENATOR LANDIS: Just a comment, Mr. Downing. I'm glad that you and I happen to be on the same side of this one. I am not a proponent of this issue, as that notion of what is good for families is, I think, an important one. We had, over in the Revenue Committee, on the earned-income tax credit methodology of helping families who are the working poor transition from welfare into work--mostly a group of recipients who would probably be, more than any other, single mothers with children. I suggest that it is something for the Family First organization to take a look at,...

JEFF DOWNING: I appreciate that.

SENATOR LANDIS: ...that poverty.

JEFF DOWNING: Absolutely.

SENATOR LANDIS: And minimum wage and the well-being of families on that side is pretty important, as well.

JEFF DOWNING: Absolutely, Senator. I appreciate that input.

SENATOR LANDIS: Thank you. You bet.

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Jeff, for being with us today.

JEFF DOWNING: Thank you, Senator.

SENATOR JANSSEN: Next opponent? Any more opponents?

CHARLES KENT: Good afternoon, Senator Janssen and members of the committee. I've never done this before, so.

SENATOR JANSSEN: That's all right.

CHARLES KENT: My name is Charles Kent, K-e-n-t, and I'm here representing Gambling with the Good Life, and I'm here to discourage support of LB 1048 and LB 1110. I have heard a lot of talk here about winners and losers and addiction, and unfortunately there can't be good news for winners without also being bad news for losers, and lots of losers. It takes lots of losers for a winner. And my only real

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expertise or experience with gambling and addiction, and I link the two together also, is my eight and a half years as a pastor at the Open Door Mission in Omaha where I dealt with the wreckage of people who were addicted to all kinds of things, including gambling and so forth. So many were not addicted to good things. Addiction always carries with it a negative inference, and people aren't addicted to doing good or to giving to charities and things, but they are addicted to the negatives things in society. And I don't actually understand addiction in the first person. When I counsel with those who are in my room, I would counsel those who are addicted to various things. Inside what I wanted to say to them is, well, just stop; I mean, just don't do it anymore; I mean, just knock it off. But it goes deeper than that, and it's a real sickness. It is a real ill and it needs to be dealt with.

SENATOR JANSSEN: Excuse me just a minute. Would you please keep your conversations...don't have any conversations in here. They are kind of annoying to the testifier and to the committee. If you want to talk to someone, go on outside; thank you. Continue.

CHARLES KENT: Okay, thank you. We had an individual there that became a good friend of mine, and he was addicted to garbage. And he couldn't walk by a dumpster without diving into it, and I'm not making this up. This was a real thing in his life. In fact, he had a pickup and the back of his pickup was always loaded with garbage and trash, wherever he would drive around and find a dumpster and he would load it in there, and then, of course, spend all of his time looking through it. And one day I asked him, I said what are you looking for? Why are you diving in dumpsters all the time? And he said, you know, many years ago I found a gold watch in a trash can. And so when he said that, I felt like I understood the gambler just a little bit more. He is looking for the gold watch. And he believes it is just right there and he believes, like my friend, that there is a gold watch in every...or a trinket of some sort in every dumpster, and so that has been stamped indelibly on his mind. And one day I was spraying for bees up under my eave at our house. I was spraying for bees with something that was supposed to kill them, but instead it attracted them, and they came flying right down on me into my face. And I turned around and I ran, but I forgot that I was on the

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third rung of a ladder when I did that, and, of course, when I landed on the ground, my glasses broken, my ego broken, I looked around to see if any of my neighbors had seen me, and felt pretty bad about that. But I couldn't help but relate this to the folks that I deal with anyway, when it comes to the area of gambling and addiction, and that is that they are after the gold watch, but they don't realize that they are the third rung. And what they wind up doing in the process of going for the trinket and the gold, is that they run after it and they fall into the deep pit full of losers. And I said, it takes many losers in order for there to be a winner, and their focus is on the advertisement that they heard, the sound of the change coming down the shoot, and the easy greenbacks and so forth. And in the eight and a half years I was there, I never saw gambling better somebody's life. I'm not saying that somebody's life didn't get better somewhere along the line in America or in the world somewhere, but at least where I worked and the cross section of people that I worked with, I never saw it better. I saw things get worse. I saw them go to jail. I barred them personally from coming back because they had to steal. They had to steal in order to have anything to gamble with. And there was one fellow though that did...he hit some sort of a jackpot. He won \$4,000, and I remember when he came back to the mission, you can imagine the stir that caused because everybody wanted that gold watch. Everybody wanted to go, and there must be another \$4,000 there, right? And was he satisfied with the \$4,000? Well, this is where the addiction comes in. Of course, he wasn't, and he went back, only he took about 12 of his friends with him. And when they came back to the mission and back to me, broken and broke, I remember telling them about another person that I heard talk about who said that, you know, gambling made me a millionaire, and it only took six months. It only took me six months to become a millionaire, but the sad part about it is, is that I started off as a multimillionaire. And that's true. So I know that there are many responsible ways to make money at the mission there. We hook them up with jobs and many responsible ways to make a living. But gambling hurts people and that's what I have to say.

SENATOR JANSSEN: All right. Any questions of Charles? Seeing none, thank you for being with us today.

CHARLES KENT: Thank you.

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SENATOR JANSSEN: Next opponent, please. Any other opponents? Anyone in a neutral capacity? All right. I believe Senator Bourne waived closing. Okay. And that ends the hearing on LB 1048. Senator Fischer, would you take over, please?

SENATOR FISCHER: I would like to now open the hearing on LB 1110, Senator Janssen, you are here to introduce it, so if you would, please, on LB 1110.

LB 1110

SENATOR JANSSEN: Thank you, Senator Fischer, members of the committee. For the record, my name is Ray Janssen, representing the 15th Legislative District here to give you a little rundown on LB 1110. This would authorize the use of electronic keno. I introduced this bill or am introducing it at the request of the keno operator's organization. My intention is not to have the bill advance. I introduce the bill to provide an opportunity for a public hearing and to provide notice that the keno operator organizations, they are planning on conducting an initiative petition drive to put the electronic keno on the ballot. More information on this plan will be provided at this hearing, from the keno operators hopefully that are here representing themselves. Any questions, I would answer them for you. But that is my intent of this legislation.

SENATOR FISCHER: Senator Wehrbein.

SENATOR WEHRBEIN: I didn't mean to interrupt.

SENATOR JANSSEN: That's all right.

SENATOR WEHRBEIN: The second part of this relating to local elections to establish a... Why? Is that...how's that different from the first part? Local elections?

SENATOR JANSSEN: Well, yeah. I would imagine there has to be a local election to authorize this in that entity.

SENATOR WEHRBEIN: Well, "Creates new language stating that a county, city, or village authorized to conduct lottery as

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of January 1, 2006, may conduct electronic keno."

SENATOR JANSSEN: Um-hum.

SENATOR WEHRBEIN: This relates back to the first part, that you can have it.

SENATOR JANSSEN: Right.

SENATOR WEHRBEIN: Okay. Sorry.

SENATOR JANSSEN: That's fine.

SENATOR FISCHER: Other questions? I see no other questions, Senator Janssen. Thank you.

SENATOR JANSSEN: Okay.

SENATOR FISCHER: Are there proponents to LB 1110, please? And if you would step forward, state your name, and spell it for the record.

JOHN HASSETT: (Exhibit 5) Senator Janssen, members of the General Affairs Committee, my name is John Hassett, it's H-a-s-s-e-t-t, with Advanced Gaming Technologies. We're a keno operator here in the state of Nebraska. I would like to thank you for giving us the opportunity to have a hearing. I know the members of our industry appreciate that. I want to talk a little bit about what the machine actually will be like so everybody has a good understanding of what we're proposing. It would be a self-service free-standing keno machine. It would allow the players to enter their own, select their own numbers, enter an amount and games wagered. They could actually activate the game. They don't have to wait the five minutes or wait for the live keno draw. I think as far as why we're proposing it, it is a loss in revenue that we experienced for about ten years ago. We've never been able to recover those, that money we've lost. We feel there are machine players that no longer play on the Nebraska side and this is our attempt to recap some lost market. I could answer... I might be able to clear up that question you had on the election. What the bill does is allows a city, even though they have already had a keno election, they could put this back in for another vote if they wish. A lot of cities have already had

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elections authorizing keno, and it was our understanding that may or may not be able to ask for another election, so by putting it in specifically that they would have the option if they chose to, that they could have another election if they think this is different from what they voted in they could go ahead and authorize another election. So it is a little...it needed to be clarified a little bit, but that was the thinking behind that. It was out understanding, if they have already had an election, they can't just turn around and ask for another one. So it was just kind of a safeguard for the... And it was mentioned, we did file a petition. I have some question...some frequently asked questions that I would like to hand out. So we did file the petitions basically the same except the petition does have a little more detail as far as going into taxes and a couple other issues that we thought if it would proceed as a bill that the Legislature probably would address, or they would address in regulation. So the petition is a little more detailed, but it is basically covering the same topic. And I guess the reason behind doing both approaches is we're aware it is a short session and we're also aware that you guys face a lot of issues here, and without it being prioritized we understand that we could just run out of time here as far as it ever being heard. And I saw one of your controversial issues on the way in--the signs. But, anyway, I'm kind of here to answer questions and provide information, so.

SENATOR FISCHER: Okay. Thank you very much, John. Are there any questions? Senator Erdman, please.

SENATOR ERDMAN: Thank you, Senator Fischer. I think the language that...first of all, thank you for being here...I think the language that Senator Wehrbein was asking about is half the question that I had. The second question that comes out of that same language, starting on page 6, line 25, is the requirement, as I would read it, and since you have a copy I'll let...page 6, line 25, beginning with the word any: "Any county, city, or village not authorized to conduct such a lottery on January 1, 2006, shall submit the issue of authorizing an electronic keno lottery to the registered voters..." So the first part would be if a city, county, or village had authorized some form of keno under a previous act. That question then becomes can they do it again under a different form, which is the electronic. It

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seems to me that the language that I just read to you says that if they had already voted not to do it, that they would now be required to place it on the ballot for their citizens to vote on it, and they wouldn't have the choice of deciding whether they wanted to even pursue that or not as the elected local officials. Is that...?

JOHN HASSETT: And that's similar to what is in effect right now for keno. Now, before you can authorize...before a city council can authorize keno, they have to have an election. So anyone who doesn't have an election currently, authorizing keno, they would have to have an election if they wished to authorize keno in the future.

SENATOR ERDMAN: So the decision for that city council to go forward would have already been made. They have to go forward with the vote.

JOHN HASSETT: If they don't have a valid keno election, that's correct. If they do have a valid keno election, then they have the option to either have an election or just go ahead and approve it.

SENATOR ERDMAN: Thank you.

JOHN HASSETT: Sure.

SENATOR FISCHER: Other questions? Seeing none, thank you very much, John.

JOHN HASSETT: Okay, thank you. Thanks for your time.

SENATOR FISCHER: Are there other proponents to the bill?

GARY KRUMLAND: Senator Fischer, members of the committee, my name is Gary Krumland. It's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm appearing in support of LB 1110 because the league executive board has taken a position that's actually a long-standing position they adopted several years ago in support of making some changes to the keno law to make it a little more modern, and this bill does contain some of those elements, including player activation and basically some of the electronic keno stuff. As you've heard, keno revenues have been decreasing recently. Some people think it is the

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casinos, others think it may be some of the illegal slot machines out there. But cities do use this revenue for parks, swimming pools, sidewalks, and a lot of things, and that revenue is decreasing. And so the league does support modernizing...I guess I'll put it that way...the keno laws. And with that, I'd be happy to answer any questions.

SENATOR FISCHER: Thank you, Gary. Senator Landis.

SENATOR LANDIS: One of the traditional pillars of the league's positions generally has been in opposition to unfunded mandates, fair to say?

GARY KRUMLAND: Um-hum.

SENATOR LANDIS: An another theme that they generally have is local control?

GARY KRUMLAND: Um-hum.

SENATOR LANDIS: Which I think place this bill at some odds with the league in that it requires you to have the expense of an election whether your...

GARY KRUMLAND: Well,...

SENATOR LANDIS: ...city wants to or not. And, Gary, I'm wondering what it is about this issue that makes you embrace something that defies local authority, at least for the city council, and makes you bear costs that you might not want to bear.

GARY KRUMLAND: And I've heard the answers to the questions and stuff. I don't know if that was the intent of the language here. That may be what it exactly says, and I would think...

SENATOR LANDIS: Gosh, I think John just told us. He said, look, here's the deal.

GARY KRUMLAND: Yeah. Well, in that case, we...

SENATOR LANDIS: You are going to have a vote to find out whether you want it or not.

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GARY KRUMLAND: Right now, in order to do keno, you have to have an election, so the keno is supported by the citizens of the city or village.

SENATOR LANDIS: Although the election is optional, is it not?

GARY KRUMLAND: Yeah, and it is up to the...you know...can place it on the ballot pretty much by the governing body, the city council, village board, county board, or through a petition.

SENATOR LANDIS: And wrest that power out of the hands of the city council and...

GARY KRUMLAND: It would seem inappropriate...

SENATOR LANDIS: Yeah.

GARY KRUMLAND: ...and probably a waste of time to require people to have an election. I guess I think the intent of the language, and one way you could read it is that if you wanted to have electronic keno, you would have to go to a vote of the people.

SENATOR LANDIS: Well, that's when you are upgrading.

GARY KRUMLAND: Or even, for a city or a county or village who does not have any keno right now.

SENATOR LANDIS: Right. They're going to have to have an election.

GARY KRUMLAND: Um-hum.

SENATOR LANDIS: That's what I took the last figure to say. If it's wrong, I'm sure we'll correct that (inaudible).

GARY KRUMLAND: Yeah. And if it does force an election, we would probably oppose that if that is, in fact, what it does, but.

SENATOR FISCHER: Thank you. Other questions? Seeing none, thank you very much, Gary.

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GARY KRUMLAND: Um-hum.

SENATOR FISCHER: Are there other proponents to the bill? I see none. Are there opponents to the bill? If you would come forward and state your name and spell it, please.

EUGENE TYSON: Senator Fischer, members of the committee, my name is Eugene F. Tyson, T-y-s-o-n. I appear as one of the directors of Gambling with the Good Life, and I appear in opposition to LB 1110. Some or all of the remarks that I made regarding LB 1048 would serve here as well. And Senator Fischer and the other members, I want you to know that I did considerable research on this issue. I even went to a bar in Hadar, Nebraska, yesterday, and for the first time in my life, spent a dollar on keno. And this is...

SENATOR LANDIS: And you won \$4,000 bucks and you are going to have 12 friends who are going to go back with you the next time.

EUGENE TYSON: Senator Landis,...

SENATOR LANDIS: No?

EUGENE TYSON: ...I'm as greedy as the next person, and I wish I had, but, you see, I couldn't because some of the research I did indicates that...I picked six numbers, and none of them came up, which didn't really surprise me much. The odds of hitting six numbers... Well, if I had, they would have paid me \$2,000. Now, I understand that \$1,500 is a normal payout on that, but these people, because of the goodness of their heart, would have paid me \$2,000. Would you be interested in knowing the odds on hitting six numbers out of 80?

SENATOR LANDIS: All ears.

EUGENE TYSON: 7,753 to 1. So even if I had, I wouldn't have been paid on the odds; I would have been paid on their determination of it. But the thing of it is, speed and gambling is one of the items in addiction to gambling. I could do 12 of those an hour because there are five minutes between games. Now, I believe that's a requirement. I'm not sure about that but I believe it's a requirement. With this machine, you can do 12 a minute if you are slow and

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clumsy, and if you are agile you can probably do more than that. Here again, it's the action that is addictive. There is no essential difference between this machine and a slot machine except maybe the slot machine has more lights going on around in a circle. But this is a gambling device, very, very much akin to a slot machine, and the fact that instead of pushing a button or pulling a handle, you rub your finger over or you may be able to just let the machine do it. This makes it into a slot machine to all intents and purposes. Slot machines are unconstitutional in the state of Nebraska, and I think calling it a keno machine doesn't change the essential nature of the machine that would result by the passage of LB 1110. And I urge that this bill, along with LB 1048, be indefinitely postponed. If you have any questions, I would be happy to answer them.

SENATOR FISCHER: Thank you, Senator Tyson. Are there any questions from the committee? I see none. Thank you very much.

EUGENE TYSON: Thank you very much.

SENATOR FISCHER: Are there other opponents to this bill? Welcome, Al.

AL RISKOWSKI: Al Riskowski, Nebraska Family Council. Riskowski is R-i-s-k-o-w-s-k-i. And just to reemphasize what I want to say Senator Tyson just had to say, but Mr. Tyson. I also did a little investigating on-line, and it was amazing when you put in electronic keno what comes up on the Internet. And what I soon discovered was the gaming individuals really like electronic keno because it is fast; it is quick; and people play it to a great extent. Back in the November 2004 election, slot machines were on the ballot, and this is very similar to slot machine in action and in many different ways. It's very close. It's not exactly the same but it's very close because of the action. The Nebraska voters voted that down overwhelmingly to not expand gambling in Nebraska, specifically slot machines. And this is so similar to it, I hope that this committee will take that into consideration and also feel that, along with the voters of Nebraska, this does not warrant to move forward. Two decades ago, state governments almost uniformly served as watchdogs to oppose any form of gambling. Now, often, state legislatures promote gambling.

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Have we gotten so desperate for revenues that we have become insensitive to gambling's negative consequences to communities, families, and individuals? I ask you again to consider the many statistics you've heard over and over again how this affects families. And please do not move this bill out of committee. Thank you.

SENATOR FISCHER: Thank you, Al. Questions? Senator Landis.

SENATOR LANDIS: Al, you heard Senator Tyson say that he had done some research yesterday. Does it trouble you that Gene Tyson was betting on Sunday? I'm not sure of the day of rest theory, that going to a bar and playing keno would fit directly, scripturally, into the idea of a day of rest. It troubled me a little bit but I didn't know if it troubled you.

AL RISKOWSKI: Senator, I would have to agree with you on that. There is some consideration that must be taken in to the day and the effort.

SENATOR LANDIS: Um, thank you.

AL RISKOWSKI: But, however, the result is true.

SENATOR LANDIS: (Laugh)

SENATOR FISCHER: Other questions? Seeing none, thank you very much.

AL RISKOWSKI: Thank you.

SENATOR FISCHER: Are there other opponents to the bill's

JONATHAN KRUTZ: (Exhibit 6) Senator Fischer, members of the General Affairs Committee, my name is Jonathan Krutz, K-r-u-t-z, and I also am with Gambling with the Good Life. And I would say, Senator Landis, from a research standpoint, I think we could look at the gambling on Sunday as just a research activity rather than a gambling activity.

SENATOR LANDIS: Ah. Oh.

JONATHAN KRUTZ: So from that standpoint, it would be okay.

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Four items I would want to share with you, and the first of these, you're familiar with the National Gambling Impact Study Commission report. In this report of Congress and the President, they looked at all the gambling as it proliferated in the late '90s across the country, and tried to get a handle on the impact of it. And really the strongest conclusion of this report was, slow down, you know, we don't know where we're going and we didn't have enough money to find out exactly where we're going, but there are clearly impacts. But there was one very strong statement in this report with regard to the bill that you're under consideration today, and that is the idea of turning keno into what would be slot machines or what this commission would call convenience gambling. And this is Recommendation 3.6: The commission received testimony that convenience gambling, such as electronic devices in neighborhood outlets...which this bill would propose...provides fewer economic benefits and creates potentially greater social costs by making gambling more available and more accessible, therefore the commission recommends that states should not authorize any further convenience gambling operations and should cease and roll back existing operations. And, in fact, some states or the state of South Carolina is an example of a state that ceased and rolled back. They had electronic gambling devices similar to those that would be approved under this bill, and they threw out 30,000 of them in the year 2000. So I would call that to your attention. Secondly, I would point out... Well, here's a picture off the Internet of Lucky Tab II bingo slot machines, and I'll hand it around. Those are bingo; and similarly, that is what keno would start to look like in the state of Nebraska. Maybe not the reels. As I understand in the bill, you can't have the reels, so probably they would replace that maybe with a wheel of fortune or some other similar thing. But apart from that, this is what they are talking about putting across the state of Nebraska. Similar kinds of machines are available now in South Dakota. They are called lottery machines; they are video lottery. And there was an interesting study done in South Dakota with those machines, and I have a copy that I'll leave with you of that study. It was conducted for medical professionals and published in the South Dakota Journal of Medicine in 1996. South Dakota had this interesting situation where they had these machines across the state and they shut them down for 100 days. And during

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that 100 days, these four medical professionals did a study, and what they found was, the number of gamblers treated, problem gamblers treated per month dropped 93.5 percent during those 100 days. And 97.9 percent of the gambling addicts in treatment were primarily addicted to the video lottery,...and in this case we would be talking video keno, but, again, as Senator Tyson pointed out, it's the same thing...and not to other types of gambling. So when these machines were shut down, the gamblers didn't come to treatment because they weren't in need of treatment. They weren't hooked on other things. Their data suggests that there was little substitution of other forms of gambling when that video lottery wasn't available. And I will just leave a copy of this study for your record. I would point out that in 1996, 40 Nebraska economists signed a statement that said, we, the undersigned Nebraska economists are opposed to the expansion of gambling in Nebraska because the additional direct and indirect costs are likely to far outweigh the additional direct and indirect benefits for this state as a whole. And I would say, there is no question under this bill, that what we're looking at is an expansion of gambling. What they are looking for is more revenues coming from gambling, and it is faster gambling. And, finally, a study that was done in the state of South Carolina by Deloitte & Touche, "Economic and Physical Impacts of the South Dakota Gaming Industry," done in 1998. A couple things that they found: One was they concluded that if all of the...and, again, in South Dakota they are calling them video lottery machines, but they would be quite similar to what we're talking about here with video keno machines essentially. If all the video lottery machines in South Dakota were just shut down, according to the report of Deloitte & Touche, there actually would be a net gain of about 615 jobs in the state of South Dakota, so you would lose some of the jobs associated with the gambling, but in the greater society, those jobs would reabsorbed and actually more would be created because the money that is currently going into those slot machines would be going into other enterprises that would be employing people, and the overall South Dakota economy would be over \$100 million larger every year, again because the money going into those machines would be going into other more productive enterprises. In short, the idea that we can benefit from expanding gambling without related costs is just...it's not accurate. And I appreciate the consideration of each of you

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with the bill before you to recognize that and to not further this particular electronic keno idea. I also would suggest that you ask the Attorney General for an Opinion. It would be my understanding that, in fact, this isn't a legal bill to begin with under the Nebraska Constitution; that it expands out the definition of gambling in such a way to put it in violation of the constitution. And for that reason also, I would expect that this bill will not go forward. I would take any questions.

SENATOR FISCHER: Thank you very much, Jonathan. Any questions? I see none. Thank you very much.

JONATHAN KRUTZ: Thank you.

SENATOR FISCHER: Are there other opponents to the bill? Brittany, our clerk, has asked me that I read into the record that Dave Bydalek, B-y-d-a-l-e-k, has submitted an exhibit opposing LB 1110. (Exhibit 7) Is there neutral testimony to the bill? I see none.

JONATHAN KRUTZ: What was the bill number?

SENATOR FISCHER: LB 1110. Senator Janssen, would you like to close?

SENATOR JANSSEN: All right. I'll just have a short closing and open on the next bill.

SENATOR FISCHER: That would be fine.

SENATOR JANSSEN: In closing on LB 1110, as I stated in my opening, this was for discussion only, to let us hear the proponents and the opponents on that bill. I'll open on the next bill.

SENATOR FISCHER: Senator Janssen, I believe we have a question yet on LB 1110.

SENATOR JANSSEN: All right.

SENATOR FISCHER: Senator Erdman.

SENATOR ERDMAN: Senator Janssen, on the fiscal note for LB 1110, and I wanted to wait to see what the actual

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testimony was going to be. On the fiscal note to LB 1110, it says that there is an estimated decrease in pickle cards gross proceeds of 90 percent if LB 1110 would go forward. We heard testimony today that 80 percent of the pickle card gross has been lost to casinos and other things that are beyond our control. I just thought it was interesting that, when given the opportunity to testify on something that would decrease another 90 percent of what they are getting, that there was no opposition. I understand your position is not to go forward with the bill, but I just wanted to point that out.

SENATOR JANSSEN: Well, with what is going to be on the ballot, why,...

SENATOR ERDMAN: Sure.

SENATOR JANSSEN: ...you know, you can use those figures. Yes, I suppose it will.

SENATOR ERDMAN: Okay.

SENATOR FISCHER: Thank you, Senator Erdman. With that, we will close the hearing for LB 1110. And Senator Janssen, would you like to introduce LB 1111 for us please?

LB 1111

SENATOR JANSSEN: Thank you, Senator Fischer. For the record, my name is Ray Janssen, representing the 15th Legislative District, here to introduce to you LB 1111, which would require those appointed to the State Racing Commission to be confirmed by the Legislature. I introduced this bill because I believe that the duties of the State Racing Commission are substantial and that it would be prudent to require the Legislature to give its approval to those who are appointed. Currently, there are about 224 boards and commissions. Thirty-seven of these meet or they must receive legislative confirmation. Six have legislative confirmation of some but not all of their members, so it's all over the board. And all 43, or 19 percent of the boards and commissions, they must receive some form of legislative approval. There seems to be no rhyme or reason as to why some boards and some commissions require legislative

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confirmation of appointees and some do not. This is inconsistent further even among boards and commissions that have significant duties. For instance, the Equal Opportunity Commission did not have to receive legislative confirmation, but the Liquor Commission and the Commission of Industrial Relations, those commissioners do. So commissions in both categories have critical, even court-like or quasijudicial responsibilities...it is easier to say court-like, but that's what it means. Since the General Affairs Committee has responsibility for the issues that come before the State Racing Commission, I thought it appropriate to put the same approval requirements on it as the Liquor Control Commission. If you have any questions,...and I am quite serious about this because I believe we need to do that. I would answer any questions you might have.

SENATOR FISCHER: Any questions for Senator Janssen? I see none.

SENATOR JANSSEN: Okay. I'll probably close because I'm sure there will be some people here to testify.

SENATOR FISCHER: Okay. Thank you very much. Are there proponents to LB 1111, please?

LYNNE McNALLY SCHULLER: Good afternoon, Senators and members of the committee. My name is Lynne McNally Schuller, S-c-h-u-l-l-e-r, appearing on behalf of the Nebraska Horsemen's Benevolent and Protective Association. We are a proponent of this bill. This is not a commentary on the current Governor or the current administration. We have a great amount of respect of him. Nor is it a commentary on the current Racing Commission makeup. They are very fair and knowledgeable about racing issues, and we are satisfied with the current composition of that commission. However, we feel that in light of the very serious decisions that they make on that commission, they have the ability to take someone's livelihood away. We really would feel more comfortable if legislative oversight was required on those appointments. For example, many of the people licensed under the Racing Commission statutes are trainers. Their sole source of income is training horses, getting them ready for the races. If the Racing Commission takes your license away, you don't have a way to make a

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living. By the same token, jockeys are also required to have a racing license. If your racing license is taken away, you are not allowed to even go on the property, meaning that you don't have a way to make a living, and, conversely, if you leave the state and you want to race in another jurisdiction, almost every other jurisdiction takes into account that you are currently suspended in another jurisdiction. So they really do make very serious decisions when it comes to someone's livelihood, and also require quite a bit of knowledge. There are a lot of medication issues and things that require special, either equine knowledge or racing knowledge, to possess. And we feel that it's a very important commission and would like to see the same type of legislative confirmation similar to, as Senator Janssen said, the Liquor Control Commission. If you have any questions I would happy to answer them.

SENATOR FISCHER: Okay, thank you, Lynne. Senator Erdman, do you have a question?

SENATOR ERDMAN: Lynne, essentially the argument that you are making isn't that the Governor will appoint different people necessarily,...

LYNNE McNALLY SCHULLER: No.

SENATOR ERDMAN: ...but make sure that the barrier, if you will, is higher, knowing that there will be a second group of people. Because since I've been in the Legislature, this is my sixth year, I think maybe we've had one person that has ever gone through any of these appointments even been scrutinized to the point that there was a chance that they wouldn't get appointed, and I think they ended up withdrawing.

LYNNE McNALLY SCHULLER: Exactly.

SENATOR ERDMAN: You're just saying that you want to make sure that they fully think through this, knowing that the Legislature will have to confirm whoever it is that's appointed?

LYNNE McNALLY SCHULLER: Exactly. We have absolutely no criticism of the Governor or the selections that have been made. We're satisfied with those. I started working in the

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Legislature about ten years ago, and Senator Landis has a lot more experience than I do, and Senator Wehrbein and Senator Janssen. There have been rare occasions, admittedly, but occasions, when an appointment has been called into question. And I think the most recent thing I can think of is when Senator Chambers took issue with the gender of some of the appointees, things like that. We just feel that checks and balances are in order in this situation.

SENATOR ERDMAN: Thank you.

SENATOR FISCHER: Other questions? I see none. Thank you, Lynne.

LYNNE McNALLY SCHULLER: Thank you very much.

SENATOR FISCHER: Are there other supporters of the bill? Do we have any opponents of the bill? Is there anyone wishing to testify in the neutral capacity? I see none. Senator Janssen, would you like to close?

SENATOR LANDIS: I move we go into Executive Session.

SENATOR FISCHER: Waives closing. Just give me a break here. I need to close the hearing. I'm sorry I'm slow. Everybody just sit down a minute, okay? With that, we will close the hearing on LB 1111 and the hearings for today.